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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,922	10/01/2004	Werner Schneider	1090-001	5865

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EXAMINER

NELSON, ALECIA DIANE

ART UNIT PAPER NUMBER

2629

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/509,922

Applicant(s)

SCHNEIDER, WERNER

Examiner

Alecia D. Nelson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 10/01/04 has been considered by the examiner.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Regarding **claims 32 and 33**, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 16-35** are rejected under 35 U.S.C. 103(a) as being unpatentable over Duda (U.S. Patent No. 202/0186180) in view of Schofield et al. (U.S. Patent No. 2004/0145457).

With reference to **claim 16**, Duda teaches an apparatus for use in remote monitoring configured and arranged to be wearable on the head of an operator, comprising: a video capture means (19); and audio pick up means (8, 9); and a transmitter means (3) to transmit the captured video and audio signals to a remote location. Duda also teaches that the electronic device is designed to conform to a wearer's head shape wherein the antenna is located on the device (see Figure 1).

While teaching that the location of the antenna is located in a position to be "safe" to the user wherein the antenna produces radiation (see paragraph 43), there fails to be any disclosure of an electromagnetic radiation shield in the form of a metal mesh screen.

Schofield et al. teaches an electromagnetic radiation shield in the form of a metal mesh screen shaped to conform to a wearer's head shape and to substantially protect the wearer's head from electromagnetic radiation emitted from the transmitter means (see column 6, lines 6-53).

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to allow the usage of a metal mesh as taught by Schofield et al. in a device having the circuitry and construction as taught by Duda, in order to provide a

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heads-up display device which is capable of protecting the user from harmful electromagnetic radiation emitted from the transmitter of the device.

With reference to **claim 17**, while Duda teaches the video capture means and audio pick up means are mounted on the wearable device, however fails to teach that the video and audio means are mounted to the metal mesh screen.

However, as explained above Schofield et al. teaches the metal mesh as claimed, thereby in combining the teachings of the reference the result would be that the mesh is located in, on, or around the housing of the wearable device; wherein Duda teaches that the video and audio means are mounted onto the wearable device.

Therefore it would have been obvious to one having ordinary skill in the art that the combination of Duda in view of Schofield allows the metal mesh screen to be provided so as to mount the video capture means and the audio pick up means. This thereby further reduces harmful electromagnetic radiation emitted from the transmitter of the device to the video and audio components of the device.

With reference to **claims 18-20**, Duda teaches that the apparatus is built into a hat, cap or brim-ring to facilitate wearability, wherein the hat or cap is of rigid, semi-rigid, or soft construction (see paragraph 26).

With reference to **claims 21-23**, Duda teaches that the audio pick up comprises a microphone (8, 9) (see Figure 6); wherein one microphone is configured and oriented

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to predominantly pick up audio from the wearer, and the second microphone to pick up background or surrounding audio signals (see paragraph 29).

With reference to **claims 24 and 25**, Duda teaches that the audio receiver capable of enabling a wearer to receive audio based instructions or advice from a remote assistant or adviser (see paragraph 30).

With reference to **claim 26**, Duda teaches that the apparatus further includes a video receiver and screen (5) (see Figure 9).

With reference to **claim 27**, Duda teaches that the video screen is mounted on an adjustable boom, which, in use, can position the screen in front of the wearer's eye (see paragraph 33-39).

With reference to **claims 28 and 29**, neither Duda nor Schofield teaches the usage of a light means in operation with the video means as recited in the claims.

However, the examiner takes Official Notice that the usage of a light in operation with a video camera is well known in the art to be used in conditions where ambient lighting conditions are too low for image pick-up.

Therefore it would have been obvious to one having ordinary skill in the art to allow the video device of Duda to include a lighting means for illuminating the

environment in which the user wishes to record images in thereby allowing the user to record at any given time.

With reference to **claims 30-33**, while Duda teaches the usage of a power supply (6) mounted in the wearable cap, there fails to be any disclosure of the power supply being mounted adjacent the mounting means or mounted on a belt loop connected via cable to power the apparatus components.

However, since Applicant has failed to disclose that the location of the power supply with relation to the wearable cap provides an advantage, is used for a particular purpose, or solves a stated problem, it is an obvious matter of design choice to have the battery placed adjacent the mounting means or on a belt loop. Inasmuch, if the battery is contained within the housing, adjacent the housing, on the belt loop of the user, or remote from the housing, it will still be necessary for the device to receive power in order to carry out operation.

Therefore it would have been obvious to allow for placement of the battery to be adjacent the housing or remote from the housing, as opposed to being contained within the housing as taught by Duda, in order to reduce the weight of the device, or to make it easier to replace or recharge the power supply.

With reference to **claims 34 and 35**, Duda teaches that the apparatus further includes a power supply switch (10) to enable the supply of electrical power to the apparatus to be switched on or off (see paragraph 50).

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Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alecia D. Nelson whose telephone number is 571-272-7771. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sumati Lefkowitz can be reached on 571-272-3638. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

adn/ADN
April 3, 2006


SUMATI LEFKOWITZ
SUPERVISORY PATENT EXAMINER